

HOUSE BILL 1252

M2

11r2827

By: **Delegate McMillan**

Introduced and read first time: February 22, 2011

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, March 7, 2011

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2011

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Large-Scale Striped Bass Poaching – Penalties**

3 FOR the purpose of establishing that a person who commits certain fishing violations
4 with respect to striped bass, and the violation results in the unlawful capture of
5 striped bass worth over a certain value as determined in a certain manner, is
6 subject to imprisonment not exceeding a certain amount of time; and generally
7 relating to penalties for large-scale striped bass poaching.

8 BY repealing and reenacting, with amendments,
9 Article – Natural Resources
10 Section 4-1201
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2010 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Natural Resources**

16 4-1201.

17 (a) Except as otherwise specifically provided in this title, a person who
18 violates any provision of this title is guilty of a misdemeanor and, upon conviction, is
19 subject to a fine not exceeding \$1,000, with costs imposed in the discretion of the court.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (b) Unless another penalty is specifically provided elsewhere in this title, any
2 person found guilty of a second or subsequent violation of any provision of this title is
3 subject to a fine not exceeding \$2,000, or imprisonment not exceeding one year, or
4 both, with costs imposed in the discretion of the court. For the purpose of this
5 subsection, a second or subsequent violation is one which has occurred within two
6 years of any prior violation of this title.

7 (c) In addition to any administrative penalty provided in this title, violation
8 of any rule or regulation adopted by any unit within the Department pursuant to the
9 provisions of this title is a misdemeanor and is punishable as provided in subsections
10 (a) and (b).

11 (d) **(1)** In addition to any other applicable penalty set forth in subsections
12 (a) and (b) of this section, a person who violates any provision of this title or any
13 regulations adopted by the Secretary under the authority of this title concerning the
14 taking of or creel limits for striped bass, commonly known as rockfish, shall be subject
15 to the following penalties:

16 **[(1)] (I)** For a first violation, a fine not exceeding \$1,500 per fish;

17 **[(2)] (II)** For a second violation, within a 2-year period, a fine not
18 exceeding \$2,500 per fish and revocation of the fishing license for a period not less
19 than 1 year but not more than 2 years; and

20 **[(3)] (III)** For a third violation within a 4-year period, a fine not
21 exceeding \$2,500 per fish and revocation of the fishing license for a period not less
22 than 2 years but not more than 5 years.

23 **(2) IN ADDITION TO ANY OTHER PENALTY PROVIDED UNDER THIS**
24 **TITLE, A PERSON WHO COMMITS ANY OF THE FOLLOWING VIOLATIONS, AND THE**
25 **VIOLATION RESULTS IN THE UNLAWFUL CAPTURE OF OVER \$20,000 WORTH OF**
26 **STRIPED BASS AS DETERMINED BY THE PROCEEDS OF THE UNLAWFUL**
27 **CAPTURE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
28 **IMPRISONMENT NOT EXCEEDING 2 YEARS:**

29 **(I) USING UNLAWFUL GEAR;**

30 **(II) HARVESTING DURING CLOSED SEASONS;**

31 **(III) HARVESTING FROM A CLOSED AREA;**

32 **(IV) ~~EXCEEDING~~ VIOLATING ESTABLISHED HARVEST,**
33 **CATCH, OR SIZE LIMITS; OR**

34 **(V) VIOLATING TAGGING AND REPORTING REQUIREMENTS.**

1 (e) A common carrier transporting fish who is not the buyer, seller, or
2 catcher of the fish or is not controlled by the buyer, seller, or catcher of the fish is not
3 subject to any penalty under this section for transporting fish which is either
4 unlawfully caught or of unlawful size provided that the operator of the common carrier
5 has in his possession a valid bill of lading, stating the origin, shipper, destination and
6 receiver of the fish and the common carrier does not know or have reason to know that
7 the fish were unlawfully caught or of unlawful size.

8 (f) In addition to any other applicable penalty set forth in this title, a person
9 who unlawfully takes oysters from a leased oyster bottom, an oyster sanctuary, an
10 oyster reserve, or an area closed to shellfish harvest by the Department of the
11 Environment, when the area is designated and marked by buoys or other signage or
12 the person knew or should have known that taking the oysters from the area was
13 unlawful, is subject to a fine not exceeding \$3,000.

14 (g) (1) If a person is convicted of violating any provision of this title and
15 the violation causes or results in the injury, death, or destruction of any fish, including
16 a protected species of animal, in addition to any other penalty provided in this title,
17 the Secretary may order the person to pay restitution to the Department for the
18 resource value of the fish, as determined by the regulations adopted by the
19 Department under paragraph (2) of this subsection.

20 (2) The Department, in consultation with the Tidal Fisheries Advisory
21 Commission and the Sport Fisheries Advisory Commission, shall adopt regulations
22 that establish a schedule of resource values for individual species.

23 (3) If two or more defendants are convicted for the same violation
24 causing or resulting in the injury, death, or destruction of protected species of animals,
25 the court may impose restitution against the defendants jointly and equally.

26 (4) (i) Restitution under this section shall be paid within 30 days
27 or a time prescribed by regulation.

28 (ii) In each instance, restitution paid under this section shall be
29 credited to the Department to be used only for the replacement, habitat management,
30 or enforcement programs for injured, killed, or destroyed fish or protected species of
31 animals.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 June 1, 2011.